IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

WEALTH TAX REFERENCE No. 93 of 1995

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG
HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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COMMISSIONER OF WEALTH-TAX - Applicant(s)
Versus
ASHOKRAJE GAEKWAD - Respondent(s)

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Appearance :
MR MANISH R BHATT for Applicant(s) : 1,
None for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

and

HONOURABLE MR.JUSTICE M.R. SHAH

Date : 17/07/2006

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE R.S.GARG)

1. At the instance of the Revenue, following question has been referred by the Income-tax Appellate Tribunal to this Court for its answer.

   “Whether, on the facts and in the circumstances of the case and in law, the Tribunal is right in holding that the assessee (HUF) despite its status being an HUF, despite its status being in HUF, is entitled to the benefit of section 7[4] of the Act in respect of property known as “Dhairya Prasad”?”

2. The assessee, which is a Hindu Undivided Family was claiming benefit of Section 7[4] of the Wealth-tax Act in respect of the property known as Dhairya Prasad. The submission of the Revenue all through was that if property was not self-occupied, then, benefit of section 7[4] of the Act would not be available to the assessee.

3. In the matter of **Commissioner of Wealth-tax v. Ashok Raje Gaekwad, reported in 267 ITR 54,** the High Court has held in relation to occupancy and has found that the Hindu Undivided Family (HUF) would be entitled to benefits flowing from section 7[4] of the Wealth-tax Act. It is also

to be noted that the matter was between the Revenue and the same assessee. In view of the said judgment, the question referred to this Court is answered against the Revenue. The Reference stands disposed of.

[R.S. GARG, J.]

[M.R. SHAH, J.]

pirzada/-